IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7038 of 2007

Malvan Municipal Council .. Petitioner

versus

Mrs.Anjali Dattatraya Pai & Anr. .. Respondents

...

Smt.Varsha Palav for the petitioner.

CORAM : S.B. MHASE AND
D.G.KARNIK, JJ

DATED : 24th September 2007

P.C.:

. Heard learned counsel for the petitioner.

2. By this petition, the petitioner municipal council challenges the order dated 5th April 2006 passed by the Director, Town Planning under section 47 of the Maharashtra Regional Town Planning Act (for short "the Act").

3. The respondent no.1 being the owner of the land applied for development of land by constructing

a building. The petitioner municipal council rejected the application on the ground that the municipal council had passed a resolution for amendment of the development plan proposing reservation to reserve the land for a public purpose. In appeal, the appellate authority has held that the land has not been reserved for any public purpose in the sanctioned development plan and has therefore allowed the appeal.

4. It is clear that the land is not reserved for any public purpose in the sanctioned development plan. The fact that the petitioner intends to reserve the land in future for a public purpose is irrelevant as the procedure for the reservation is not followed and there is no reservation. In the circumstances, we see no error in the order passed by the appellate authority.

5. Petition is accordingly rejected summarily.

(D.G. KARNIK, J) (S.B. MHASE, J)